(*d*) Concessions, monopolies, or preferential economic privileges.

(*e*) Development of railways, including plans relating to Chinese Eastern Railway.

(*f*) Preferential railroad rates.

(*g*) Status of existing commitments.

tegrity and the open door in China, and also pledge them to aid in supporting a stable government in China, and not to take selfish advantage of present conditions in that country.

The question whether the application of the rules was limited to future events or was retroactive was never settled. Japan held always that they were retroactive only by mutual consent in each particular instance.

The past encroachments upon China's territorial integrity were remedied only in the Shantung settlement and in the British offer to return Wei-Hei-Wei. Japan refused to restore Manchuria and the British to restore Kowloon, and the French, therefore, refused to restore Kwangchowwan.

A commission was provided to investigate and make recommendations respecting modifications of extraterritoriality in China, under which other powers maintain courts, police, etc., in impairment of administrative integrity in China.

Provision was made for a commission to investigate and make recommendations respecting withdrawal of foreign troops now in China without treaty sanction.

Provision was made to remove foreign post-offices from China not later than January 1, 1923.

Provision was made to restore China's rights in wireless stations set up on her soil by other powers or their nationals.

Provision was made to increase China's customs rate from 3½ per cent effective to 5 per cent effective, and for a commission to investigate and recommend as to further increases. Nothing was done toward lifting customs restrictions upon China entirely. These provisions were embodied in a separate treaty known as the Chinese Customs treaty.

There was a restatement, in more specific and emphatic form, of the open-door policy and agreements against discrimination on railroads in China, designed to protect the open-door principle.

A board of reference to review allegations of violation of the open-door rule was created, but efforts to empower the board to investigate violations of the open door in the past were rejected.

China's plea for cancellation of the treaties, based upon the 21 demands presented to her by Japan in 1915, was refused by Japan, and discussion on the subject closed with putting into the record the Chinese and Japanese arguments and a restatement of the American protest made at the time the demands were submitted.

However, some modification of the demands was accomplished, in that the Shantung agreement disposed of a block; and Japan announced the dropping of Group 5, and also yielded a point as to loans in Manchuria and Mongolia, to the extent that she granted the consortium the right to participate in such loans instead of holding them exclusively for herself.

Failure resulted in the attempts to reorganize control of the Chinese Eastern Railway, and the action in that matter was limited to the resolutions that the road should be more efficiently conducted, and that China should face her responsibility for payments as they fall due to the nationals of other powers holding the road's securities.

Provision was made that all treaties, conventions, exchanges of notes, international understandings, and concessions affecting China shall be filed with the Secretary-General of the Conference, and any new ones shall be notified to all the powers not later than sixty days after being consummated.

2. Siberia.

2. Discussion of Japanese troops in Siberia failed to produce immediate withdrawal.

Japan promised to withdraw them when order prevails and her nationals are safe. Japan also promised to withdraw her troops from Sakhalin when reprisal negotiations with an "orderly" Russian government for the massacre of her people at Nikolaievsk have been completed. She solemnly declared again her purpose not to seize territory. America's protest against the Japanese policy in Siberia, stated in 1920 and thereafter, was expressed again in emphatic terms.

3. Mandated islands (unless questions earlier settled). Electrical communications in the Pacific.

3. The Yap agreement between the United States and Japan disposed of the mandated islands in the Pacific north of the equator, and decision was reached to deal with those south of the equator in direct negotiations between Great Britain, holding the mandate, and the United States.

Discussion of the electrical communications in the Pacific resulted in nothing more than confirmation of a resolution adopted under the Chinese section of the agenda to restore China's rights in wireless stations on her soil.

The adoption of the Four-Power pact between the United States, Great Britain, Japan, and France, and the consequent conditional termination of the Anglo-Japanese pact, was a result of the Conference which was not projected in the formal agenda.

While the Conference was in session the chief delegates of the five principal Allied and Associated Powers in the World War reached an agreement for the disposition of the former German cables in the Pacific.

NAVAL QUESTION

Failure having been registered formally on December 28 in the British fight to abolish submarines, on December 29 the Naval Committee turned its attention to the Root submarine rules, which had been offered after the British accepted defeat. Discussion of the submarine rules evoked from Mr. Root one of the most eloquent speeches of the Conference.

Mr. Balfour accepted the first Root resolution—that restating the old international rule governing submarines, which Germany had shattered—provided the legal experts found it to be an accurate restatement. Admiral de Bon shared Mr. Balfour's views, but carried the reservation as to its legal accuracy to the point of desiring the resolution referred to a committee of jurists. Senator Schanzer had the same thought, and went on to argue a difficulty in separating the first Root rule from the second, which was de-

signed to prohibit all submarine attacks on merchantmen, and also to argue the necessity for a definition of a merchantman. Sir Robert Borden discussed the rule from a legal viewpoint, and Mr. Harihara said that the Japanese were in accord with the rule, but favored its reference to a drafting committee.

MR. ROOT'S SPEECH

Mr. Root replied as follows:

Senator Schanzer has asked some questions, to which I shall reply:

First. As to the agreement of Article I of the resolutions now before the committee with the second article, relative to the prohibition of making use of submarines as commerce destroyers, which he deems inconsistent with Article I.

Article I is a statement of existing law; Article II, if adopted, would constitute a change from the existing law, and therefore it is impossible to say that it is not inconsistent. If it were not inconsistent, there would be no change. Article II could not be consistent with Article I and still make a change.

Senator Schanzer also suggests that the resolution be completed, including a definition of "a merchant ship." Throughout all the long history of international law no term has been better understood than the term "a merchant ship."

It could not be made clearer by the addition of definitions, which would only serve to weaken and confuse it. The merchant ship, its treatment, its rights, its protection, and its immunities, are at the base of the law of nations. Nothing is more clearly or better understood than the subject we call merchant ship.

Now, with regard to the proposal to refer this matter to a committee of lawyers, far be it from me to say anything derogatory of the members of the profession of which I have been a humble member for more years than I care to remember. They are the salt of the earth; they are the noblest work of God; they are superior in intellect and authority to all other people whatsoever. But both this Conference and my own life are approaching their termination. I do not wish these resolutions to be in the hands of a commission, even of lawyers, after we adjourn.

I supposed when we adjourned yesterday, and after what had been said concerning the opportunity for critical examination, that the different delegations would call in their own experts and ask their advice with regard to this resolution, which is now the only one before the committee. I had supposed that the experts in international law, brought here for the purpose of advising, would have been asked whether this was a correct statement of the rules and that we would have here today the results of that inquiry.

I would like to say that I am entitled to know whether any delegation questions this statement of existing international law. You are all in favor of the principle of the resolution if it is correct. Does this or does it not state the law of nations as it exists? If it does, you are all in favor of it. What, then, hinders its adoption?

Senator Schanzer, in describing the action of submarines with regard to merchant vessels, repeated on his own behalf the very words of this resolution. The very words—*ipsissimis verbis*—of this resolution may be found in Senator Schanzer's remarks. My respect for the learning, experience, and ability of the various delegates around this table forbids me to doubt that every one here is perfectly familiar with the rules and usages as stated in the first clause of Article I. This does not purport to be a codification of the laws of nations as regards merchant vessels or to contain all of the rules. It says that the following are to be deemed among the existing rules of international law. The time has come to reaffirm them:

1. "A merchant vessel must be ordered to stop for visit and search to determine its character before it can be captured."

Do we not all know that is true? It is a long-established principle.

2. "A merchant vessel must not be attacked unless it refuse to stop for visit and search after warning."

3. "A merchant vessel must not be destroyed unless the crew and passengers have first been placed in safety."

Is there any question whatever as to the correctness of these statements?

QUESTIONS BRITISH ADVISER

Turning to one of the British legal advisers, Mr. Root asked, "Mr. Malkin, is there any doubt about that?"

Mr. Malkin replied that in principle there was no doubt at all.

As Mr. Lodge remarks to me (continued Mr. Root), this is only elementary. The object of the resolution is to form something which will crystallize the public opinion of the world. It was made perfectly simple on purpose.

Then follows a principle of vital importance, on which I challenge denial. If all the lawyers in the world should get together they could not decide the question more conclusively. The public opinion of the world says that the submarine is not, under any circumstances, exempt from the rules above stated, and, if so, they cannot capture merchant vessels. This is of the greatest importance. That is a negation of the assertion of Germany in the war that if a submarine could not capture a merchant vessel in accordance with established rules the rules must fail and the submarine was entitled to make the capture.

The public opinion of the civilized world has denied this and has rendered its judgment in the action that won the war. It was the revolt of humanity against the position of Germany that led to Germany's defeat. Is that not a true rendering of the opinion of the civilized world which we seek to express? My friends and colleagues, this is real life we are dealing with here. This is no perfunctory business for a committee of lawyers. It is a statement of action and of undisputed principles universally known and not open to discussion, put in such a form that it may crystallize the public opinion of the world, that there may be no doubt in any future war whether the kind of action that sent down the *Lusitania* is legitimate war or piracy.

This Conference was called for what? For the limitation of armament. But limitation is not the end; only the means. It is the belief of the world that this Conference was convened to promote the peace of the world—to relieve mankind of the horrors, and the losses, and the intolerable burdens of war.

We cannot justify ourselves in separating without some declaration that will give voice to the humane opinion of the world upon this subject, which was the most vital, the most heartfelt, the most stirring to the conscience and to the feeling of the people of all our countries of anything that occurred during the late war. I feel to the depth of my heart that the man who was responsible for sinking the *Lusitania* committed an act of piracy. I know that all my countrymen with whom I have had intercourse feel the same, and I should be ashamed to go on with this Conference without some declaration, some pronouncement, which will give voice to the feeling and furnish an opportunity for the crystallization of the opinion of mankind in the establishment of a rule which will make it plain to all the world that no man can commit such an act again without being stigmatized as a pirate.

THE ALTERNATIVES

There are two ways in which this question that Germany raised about the right of submarines to disobey the rules of international law—what they said in the way of destroying a merchant vessel—can be settled. With the whole dominion of the air unregulated by international law, with the score of difficult questions staring us in the face (such as blockade, contraband, and other questions in the field of law), there was a recommendation made by the committee of jurists which assembled at The Hague last year, 1920, upon the invitation of the Council of the League of Nations, to devise and report a plan for an International Court of Justice. The commission met at The Hague, and after some months of labor they recommended a plan which, with some modifications, was adopted by the Council and by the Assembly of the League of Nations, under which judges of the new court have been appointed and under which that court is about to convene next month, January, 1922. The Commission of Jurists selected by the Council of the League of Nations for its advisers went beyond the strict limit of its authority,

and so much impressed were they all with the necessity for a restatement of the rules of the law of nations as a result of the war (what happened during the war and the consequences of the war) that they made a recommendation upon it. There were present a representative of Great Britain, a most able and learned judge of the highest court, and representatives for France (a very distinguished representative), of Belgium, of Japan, of Holland, of Norway, of Spain, of Brazil, and one from the United States of America. They were all there in their individual capacities, but coming from nine different countries and selected by the Council of the League of Nations and invited there to be their advisers. All of these gentlemen unanimously agreed upon this resolution:

"The Advisory Committee of Jurists, assembled at The Hague to draft a plan for a Permanent Court of International Justice,

"Convinced that the security of States and the well-being of peoples urgently require the extension of the empire of law and the development of all international agencies for the administration of justice,

"Recommends:

"I. That a new conference of the nations, in continuation of the first two conferences at The Hague, be held as soon as practicable for the following purposes:

"1. To restate the established rules of international law, especially and in the first instance, in the fields affected by the events of the recent war.

"2. To formulate and agree upon the amendments and additions, if any, to the rules of international law shown to be necessary or useful by the events of the war and the changes in the conditions of international life and intercourse which have followed the war.

"3. To endeavor to reconcile divergent views and secure general agreement upon the rules which have been in dispute heretofore.

"4. To consider the subjects not now adequately regulated by international law, but as to which the interests of international justice require that rules of law shall be declared and accepted.

"II. That the Institute of International Law, the American Institute of International Law, the Union Juridique Internationale, the International Law Association, and the Iberian Institute of Comparative Law be invited to prepare, with such conference or collaboration *inter esse* as they may deem useful, projects for the work of the Conference, to be submitted beforehand to the several governments and laid before the Conference for its consideration and such action as it may find suitable.

"III. That the Conference be named Conference for the Advancement of International Law.

"IV. That this Conference be followed by further successive conferences at stated intervals to continue the work left unfinished."

That recommendation was communicated to the Council of the League of Nations, was somewhat modified by the Council, and then referred to the Assembly of the League of Nations, and by the Assembly was rejected. The door was closed. Where do we stand? Is this not to be a world regulated by law? What are our disarmaments worth if we give our assent to the proposition that the impulse of the moment, the unregulated and unconstrained instincts of brute force, shall rule the world, and that there shall be no law? If there is to be a law, somebody must move. There is no adequate law now with regard to submarines. There is no law now regarding aircraft. There is no law now regarding poisonous gases, and somebody must move.

The door to a conference is closed, and here we are met in a solemn Conference of the five greatest powers upon the limitation of armaments and charged to do something toward the peace of the world. This resolution proposes to restate the rules of war that have been trampled under foot, flouted, and disregarded. This resolution proposes that we assert again the domination of those humane rules for the protection of human life, and that we discredit and condemn the attempt to overturn them. This resolution proposes to tell what we really believe, that we characterize as it ought to be characterized the attempt to overturn the rules impressed by humanity upon the conduct of its governments,

NOT TO BE BURIED UNDER LAWYERS

Is there a delegation here that can afford to go back to its own people and say to them, "Upon the proposal being presented to us, we referred it to a committee of lawyers and adjourned?" It will not down. These resolutions speak with a voice that will continue insistently. I am not going to be buried under a committee of lawyers myself, and these rules cannot be buried under them. Either we speak clearly and intelligibly the voice of humanity, which has sent us here and to which we must report, or that voice will speak for itself and, speaking without us, will be our condemnation.

Mr. Chairman, I am opposed to the reference of this resolution to a committee of lawyers or to any other committee. I ask for a vote upon it here. If the delegation of any country represented here has any error to point out in it, I am ready to correct it; but I ask for a vote upon it, in furtherance of the principle to which every one of my colleagues around this table has given his adherence.

Mr. Chairman, I omitted, in answering Senator Schanzer's very discriminating question regarding the relations between Articles I and II, to say that of course if the second article were adopted by all the world, it would supersede Article I. This, however, would be a long, slow process, and during the interval the law as it stands must apply until an agreement is reached. Article I also explains in authorized form the existing law and can be brought forward when the public asks what changes are proposed. In proposing a change it is necessary to make clear what the law now is. It is very important to link this authoritative statement in Article I with the new principle proposed in Article II.

SENATOR SCHANZER REPLIES

Sir John Salmond agreed with Mr. Root that a committee of jurists should not be appointed to deal with the resolution, but said there were certain ambiguities which should be cleared by verbal amendment. Senator Lodge said the question could be settled at the table, and said a standard should be erected to which the civilized world could repair. Senator Underwood concurred in Mr. Root's argument, and declared that if the Conference was only to do things that would "save dollars or francs or shillings for a few years. we had better adjourn." Senator Schanzer, replying, said that some misunderstanding had arisen; that the Italian delegation was in entire sympathy with Mr. Root's proposals, and that the delegation did not insist upon sending the whole matter to a committee of jurists.

ACCEPTED IN PRINCIPLE

Recess was taken for luncheon at this point, and when the afternoon session began there was a general discussion as to changes in phraseology and rearrangement of the form of the first resolution. This discussion resulted in a general clarification of views, and finally each delegation gave its formal assent to the resolution in principle, and it was referred to a committee, headed by Mr. Root, to be redrafted.

THE SECOND RESOLUTION

Mr. Hughes, as chairman, then presented the second resolution, in the form in which it was submitted by Mr. Root, as follows:

The signatory powers recognize the practical impossibility of using submarines as commerce destroyers without violating the requirements universally accepted by civilized nations for the protection of the lives of neutrals and noncombatants, and to the end that the prohibition of such use shall be universally accepted as a part of the law of nations, they declare their assent to such prohibition and invite all other nations to adhere thereto.

Mr. Hughes explained that while the first resolution stated the old rules of war as to submarines, the second proposed

to go farther and outlaw that weapon. He also explained that the resolution would not be an attempt of the Conference to make international law for the world, but a proposal of a law, to which the nations in the Conference would lead in giving their assent, and which would become effective when all the powers had assented.

THE BALFOUR AMENDMENT

Mr. Balfour proposed that the Conference go farther. He would have the proposal of a law against submarine attacks on merchantmen made effective at once, as between the powers represented in this naval Conference. After some discussion, in which the sympathy of Mr. Root and Mr. Hughes with the Balfour idea was revealed, Mr. Balfour put his idea into form by submitting the following amendment to the second Root resolution:

They declare their assent to such prohibition and they agree to be bound forthwith thereby as between themselves, and they invite all other nations to adhere to the present agreement.

Adjournment was taken after Mr. Balfour's amendment was submitted, and when work was started the next day, December 30, Senator Schanzer and M. Sarraut said they would have to await instructions from their governments. Mr. Harihara said his government would have to be consulted, too; so, after some further discussion as to the form of the third resolution, both the second and the third went over, pending receipt of instructions to the French, Italian, and Japanese delegations. The third resolution went over with the second, because it was conditioned upon the second.

In the midst of the expressions from the delegates as to the Root rules occurred an exchange between Lord Lee, of the British delegation, and Admiral de Bon and M. Sarraut, of the French, that caused momentary excitement.

Lord Lee directed the attention of the French to a series of articles by Captain Castex, an important and highly placed French naval officer, which appeared recently in the *Revue Maritime*, a publication which Lord Lee described as "technical and official." In these articles Captain Castex defended the use made by the Germans of the submarine, and said that to have done otherwise "would have been to commit a great blunder." He also approved the submarine as the instrument "which will overthrow for good and all the naval power of the British Empire." Lord Lee suggested that an expression and a repudiation of these articles by the French delegation be made.

It was. Both Admiral de Bon and M. Sarraut denounced the articles as contrary to the thought and purpose of the French authorities. Admiral de Bon added that Captain Castex is a lecturer rather than a sailor, and that the *Revue Maritime* carries on its title page a statement that the French Admiralty and General Staff assumes no responsibility for what appears therein.

In the afternoon session of December 30 the important question of total tonnage of aircraft carriers was taken up. Agreement had been reached upon 27,000 tons as the maximum per ship. Mr. Hughes recalled that under the original American plan the United States and Great Britain were to have 80,000 tons each and Japan 48,000 tons. That was in conformity with the 5-5-3 ratio for capital ships as between these nations. If the 1.75 ratio for France and Italy, in relation to 5-5-3, which had been adopted for capital ships, were followed as to aircraft carriers, France and Italy each would be given 28,000 tons.

ITALY AS TO AIRCRAFT

Admiral Acton, for Italy, started the debate with this statement:

With respect to aircraft carriers, the American proposals assign to Italy 28,000 tons, corresponding to the capital-ship tonnage of 175,000 tons, already determined upon. This would permit the construction of only one aircraft carrier of the maximum of 27,000 tons agreed upon for this class of vessel. It must, however, be taken into consideration that if a single vessel of this character were obliged to go into dry-dock or were to be sunk at sea, Italy would find herself under these circumstances temporarily or definitely without any aircraft carrier whatsoever. We believe it, therefore, to be indispensable that we should be equipped with a total tonnage of aircraft carrier superior to that which has been assigned to us. To be precise, we ask as our minimum a tonnage corresponding to a figure double that of the maximum tonnage assigned to us for vessels of this class—*i. e.*, 54,000 tons. It is, moreover, understood that if a tonnage superior to 54,000 tons is assigned to any other Mediterranean power, we demand a parity of treatment in this respect—*i. e.*, we demand the allowance of an equal amount of tonnage.

Lord Lee stated the British position, which was summarized thus in the communique:

He had listened with attention and with a certain sympathy to the remarks of Admiral Acton, because the Admiral had suggested a situation which might, and perhaps must, occur in every navy through a ship being out of action at intervals during her career. The Admiral had complained that, having only one airplane carrier, the Italian navy would be deprived altogether of that arm if their one ship happened to be in dock or out of action. Looking at the matter impartially, it appeared to him that the claim put forward by the Italian delegation was very difficult to resist.

Since the proposal of the United States delegation to limit the maximum size of the airplane carriers to 27,000 tons, with an armament not to exceed the 8-inch gun, he himself had had an opportunity to discuss the matter with his experts. They regarded those limits as reasonable and in strict accordance, so far as the British Empire was concerned, with the up-to-date needs of airplane-carrier construction. Without claiming undue credit to the British navy, he thought, perhaps, that it had more experience of this class of vessels than had any other fleet, and in the opinion of his experts the limits proposed provided all that was necessary.

At this point he would like to mention that the airplane carrier was essentially a fleet weapon. It was not an independent unit, but was essentially an auxiliary to a modern fleet, and it was, therefore, important that the number of airplane carriers should be adequate and proportionate to the size of the fleet. For this reason the British Empire delegation associated themselves with the view that the ratio of capital ships should be applied also to airplane carriers in order to bring both number and tonnage into line with actual requirements.

PRESENT SHIPS EXPERIMENTAL

At the present time the British navy possessed five airplane carriers, which included four vessels which were really experimental and three of which were small and inefficient. These vessels, in fact, were in the nature of gropings, in the light of the experience gained by the war, and certainly four of these were experimental and obsolete. In these circumstances whatever decision might be reached as regards the total tonnage, he would have to demand that Great Britain should be entitled, in spite of the rule as regards new construction, which would be discussed later, to scrap at any moment the experimental ships which they now possessed and to replace them with new ships, designed to meet the requirements of the fleet. This was the only way in which the British fleet could attain that equality with other fleets to which it was entitled.

With that reservation the British Empire delegation regretted, in view of the fact that submarines, which were an important weapon of war, were to be continued, and airplane carriers were an equally important weapon of anti-submarine defense, that it would be impossible to reduce their airplane carriers for fleet service. In these circumstances the delegation to which he belonged felt that the tonnage laid down in the original American proposals was inadequate to the essential requirements of the British Empire, as indeed they must be if the British navy was to have numbers proportional to the two ships which Italy had demanded. Before coming to the exact figures at which he thought the total tonnage limit should be fixed he would be glad to hear the views of other delegations. The British Empire delegation were most anxious, as indeed they had shown, to limit not only armaments, but expenditure on armaments, and they were most anxious to avoid competition in every class of craft and therefore to limit the numbers and tonnage of airplane carriers to the lowest point compatible with safety. He would now like to hear the views of his colleagues on other delegations.

The communique gave this summary of French and Japanese views:

Admiral de Bon said that the question of the total tonnage of aircraft carriers was evidently intimately related to the maximum of each unit. Now, in this respect, there was evidently great uncertainty, aircraft being still the subject for further study and examination, and he did not see that in any country definite views concerning a type of aircraft had been reached. If there were uncertainty with regard to aircraft, this uncertainty would evidently apply to the aircraft carriers. The decisions which the committee could take on this subject were, therefore, marked in advance by a degree of weakness due to this uncertainty, and could, therefore, be only provisional.

Having made this reservation, Admiral de Bon asked nothing better than to support the views of the other members of the committee. In the present case it could be assumed that about 25,000 tons would be the maximum tonnage of an ordinary aircraft carrier.

The French delegation considered that France actually required two aircraft carriers for European waters. This followed the same line of reasoning advanced by Italy. They also considered that a third was necessary for use in their colonial possessions. The use of aircraft for police purposes in the colonies was considered by them as of the greatest service. If newspaper reports might be believed, the French delegation suggested that an actual example of this fact was now offered in Egypt, where, in order to maintain order, the effect created by the presence of aircraft was invaluable.

Admiral de Bon stated that, in view of the above, the French delegation considered that three aircraft carriers were necessary for the needs of France. If each one of these were of 25,000 tons, that would make a total of 75,000 tons. But, in order more nearly to approach the general wishes expressed, he said that he would voluntarily agree that 60,000 tons might be sufficient for the present, and by a rearrangement of tonnage three vessels might be built in conformity with this allowance.

Baron Kato said:

I have listened with pleasure to the remarks made by Lord Lee on the question of airplane carriers. His sympathies with the Italian demand for two carriers are in accord with my position. I, too, believe that the Italian demand is justifiable.

Now the American proposal allows Japan a total tonnage of 48,000, with which she can construct only one and a half airplane carriers. That will not, in my judgment, give us a sufficient force for our protective purposes. Permit me to call your attention again to the insular character of our country, the extensive line of our coast, and the location of our harbors and the susceptibility of our cities, built of frame houses, to easy destruction by fire if attacked by air bombs. All these necessitate our having a certain number of airplanes and "portable" airplanes—that is to say, a means of distributing airplanes in such a manner as to adequately meet our local needs. We cannot have an enormous number of airplanes, to be stationed in all places where they are needed, because we are economically incapable. To meet all these needs, Japan is exceedingly desirous to have three airplane carriers of 27,000 tons each, or a total tonnage of 81,000. In asking for this increase, I shall, of course, raise no objection for a proportionate increase on the part of the United States or Great Britain.

THE CONCLUSIONS

Mr. Hughes summarized the arguments and brought the matter to a conclusion, which gave the United States and Great Britain 135,000 tons each, Japan 81,000 tons, and France and Italy 60,000 tons each, in this manner, as reported in the communique:

Great Britain desired five airplane carriers at whatever the maximum for each individual ship might be taken to be, and, if that were 27,000 tons, it would mean a maximum of 135,000 tons. France desired 60,000 tons, which, of course, could be divided in such a way as would be deemed best suited to the special needs of France. Italy desired two, which, at a maximum of 27,000 tons, would make an allowance of 54,000.

Japan desired three, which at the maximum of 27,000 tons, would be 81,000 tons.

Now, this appeared to be, with the single exception of a very slight difference between 54,000 and 60,000 in the case of France, in the ratio of the capital ships. It was quite apparent, for the reasons that had been very cogently presented, that the original figures of the American proposal would not meet what were deemed to be the needs of the various governments. He also understood that there was agreement by all that the caliber of guns carried should be limited to 8 inches, in connection with the suggested maximum tonnage of 27,000 tons.

If that disposition was agreeable to the other powers, he saw no reason why the American delegation should not accept it, with the maximum allowance for the United States corresponding to that which Great Britain had asked. And he assumed also that there would be no objection if France had this slight excess over the exact amount allowed by the ratio—that is, 60,000 tons instead of 54,000 tons—in allowing Italy a corresponding amount on the basis of parity, for which Italy had always contended.

If that was agreeable, he would put it to a vote, unless it was desired to continue the discussion further.

The delegations being polled in turn, each voted in the affirmative.

The chairman said that he understood that that vote, in view of the discussion which had preceded it, might, without separate action, be taken to include the maximum of 27,000 tons for the individual tonnage and the armament of 8-inch guns.

Mr. Hughes also stated that the American delegation would offer a proposal that existing aircraft tonnage be treated as experimental, and that each nation be allowed to proceed with building to the amount of its maximum, with the understanding that the experimental carriers be scrapped. That was unanimously agreed to.

THE REVISED ROOT RULES

On January 5 the Committee on Limitation of Armament met and unanimously adopted all of the Root submarine rules except the one making violations piracy. Some changes were made in phraseology and arrangement, so that as adopted the rules read:

I

The signatory powers, desiring to make more effective the rules adopted by civilized nations for the protection of the lives of neutrals and non-combatants at sea in time of war,

declare that among those rules the following are to be deemed an established part of international law:

1. A merchant vessel must be ordered to submit to visit and search to determine its character before it can be seized.

A merchant vessel must not be attacked unless it refuse to submit to visit and search after warning, or to proceed as directed after seizure.

A merchant vessel must not be destroyed unless the crew and passengers have been first placed in safety.

2. Belligerent submarines are not, under any circumstances, exempt from the universal rules above stated; and if a submarine cannot capture a merchant vessel in conformity with these rules, the existing law of nations requires it to desist from attack and from seizure and to permit the merchant vessel to proceed unmolested.

II

The signatory powers invite all other civilized powers to express their assent to the foreging statement of established law, so that there may be a clear public understanding throughout the world of the standards of conduct by which the public opinion of the world is to pass judgment upon future belligerents.

III

The signatory powers recognize the practical impossibility of using submarines as commerce destroyers without violating, as they were violated in the recent war of 1914-1918, the requirements universally accepted by civilized nations for the protection of the lives of neutrals and non-combatants, and, to the end that the prohibition of the use of submarines as commerce destroyers shall be universally accepted as a part of the law of nations, they now accept that prohibition as henceforth binding as between themselves, and they invite all other nations to adhere thereto.

THE PIRACY RULE

The next day the piracy resolution was unanimously adopted, but it was made to refer to violations of the old law as restated rather than to the resolution forbidding any submarine attack on merchantmen. It was explained privately that the latter resolution was merely a contract between the signatory powers until all other powers had assented, and thereby given it the status of international law. In conformity with this understanding, the piracy rule was made number 3, following the first two rules dealing with restatement of the old law, and the rule against any attack on merchantmen was made number 4.

As finally formulated, the piracy rule declares:

The signatory powers, desiring to insure the enforcement of the humane rules of existing law declared by them with respect to attacks upon and the seizure and destruction of merchant ships, further declare that any person in the service of any power who shall violate any of those rules, whether or not such person is under orders of a governmental superior, shall be deemed to have violated the laws of war and shall be liable to trial and punishment as if for an act of piracy, and may be brought to trial before the civil or military authorities of any power within the jurisdiction of which he may be found.

POISON GAS

Mr. Hughes then brought up the question of poison gas, and read the memorandum submitted by the subcommittee representing the five powers, which had been named to study the matter. This memorandum, agreed to "more or less unanimously," follows:

(*a*) Chemical-warfare gases have such power against unprepared armies that no nation dare risk entering into an agreement which an unscrupulous enemy might break if he found his opponents unprepared to use gases both offensively and defensively.

(*b*) Since many high explosives produce warfare gases or gases which are the same in their effects on men, any attempt to forbid the use of warfare gases would cause misunderstandings at once in war; that is, one or both sides would in the first battle find men dead or injured from gas. The doubt would at once arise whether gas is actually being used as such, or whether the casualties were due to high-explosive gases. This could be made the excuse to launch a heavy attack with warfare gases in every form.

(*c*) Research which may discover additional warfare gases cannot be prohibited, restricted, or supervised.

(*d*) Due to the increasing large peace-time use of several warfare gases, it is impossible to restrict the manufacture of any particular gas or gases. Some of the delegates thought that proper laws might limit the quantities of certain gases to be manufactured. The majority opinion was against the practicability of even such prohibition.

(*e*) It is possible to confine the action of chemical-warfare gases the same as high explosives and other means of carrying on war. The language used in this connection was that "it is possible, but with greater difficulty." On this question, as in the case of (*f*) and (*g*) following, it was evident that among the representatives of the three nations thoroughly acquainted with chemical-warfare gases—namely, the United States, Great Britain, and France—there was less doubt as to the ability to confine these gases than among the Japanese and Italians, who know less about them.

(*f*) The kinds of gases and their effects on human beings cannot be taken as a basis for limitation. In other words, the committee felt that the only limitation practicable is to wholly prohibit the use of gases against cities and other large bodies of non-combatants in the same manner as high explosives may be limited, but that there could be no limitation on their use against the armed forces of the enemy, ashore or afloat.

(*g*) The committee was divided on the question as to whether or not warfare gases form a method of warfare similar to other methods, such as shrapnel, machine-guns, rifle, bayonet, high explosives, airplane bombs, hand-grenades, and similar older methods. In this, as in (*e*) and (*f*), the United States, Great Britain, and French members (five in number), who know gas, were emphatic that chemical-warfare gases form a method of waging war similar to the older forms.

Mr. Hughes followed by submitting, on behalf of the American delegation, a report made by its advisory committee, embodying the report of a subcommittee of the advisory committee. It was as follows, in substance:

THE ADVISORY COMMITTEE'S FINDINGS

The committee has found, on consultation with experts and reference to scientific study of the subject, that there are arguments in favor of the use of gas which ought to be considered.

The proportion of deaths from their use, when not of a toxic character, is much less than from the use of other weapons of warfare. On the other hand, the committee feels that there can be no actual restraint of the use by combatants of this new agency of warfare, if it is permitted in any guise. The frightful consequences of the use of toxic gases if dropped from airplanes on cities stagger the imagination. No military necessity can excuse or extenuate such events as were of frequent occurrence during the recent war, when bombs were dropped on undefended and thickly populated cities, towns, and villages for no other purpose, apparently, than to demoralize the population. If lethal gases were used in such bombs it might well be that such permanent and serious damage would be done, not only of a material character, but in the depopulation of large sections of the country as to threaten, if not destroy, all that has been gained during the painful centuries of the past.

The committee is of opinion that the conscience of the American people has been profoundly shocked by the savage use of scientific discoveries for destruction rather than for construction.

The meeting of the Conference on the Limitation of Arma-

ment in the city of Washington affords a peculiarly advantageous opportunity for comparison of views on all questions bearing on the subject. Whatever may be the arguments of technical experts, the committee feels that the American representatives would not be doing their duty in expressing the conscience of the American people were they to fail in insisting upon the total abolition of chemical warfare, whether in the army or the navy, whether against combatant or non-combatant. Should the United States assume this position, it would be no evidence of weakness, but of magnanimity. Probably no nation is better equipped by reason of scientific knowledge among its technicians and by means of its material resources to use chemical warfare effectively. This committee, therefore, submits the following resolution for adoption by the Advisory Board and to be communicated to the American delegates to the Conference on the Limitation of Armament:

Resolved, That chemical warfare, including the use of gases, whether toxic or non-toxic, should be prohibited by international agreement, and should be classed with such unfair methods of warfare as poisoning wells, introducing germs of disease, and other methods that are abhorrent in modern warfare.

Mr. Hughes also laid before the committee the recommendation on poison gas from the land armament subcommittee of the Advisory Committee. This subcommittee, headed by General John J. Pershing, recommended:

Chemical warfare should be abolished among nations, as abhorrent to civilization. It is a cruel, unfair, and improper use of science. It is fraught with the gravest danger to non-combatants and demoralizes the better instincts of humanity.

Further, Mr. Hughes submitted a report on poison gas made by the General Board of the United States Navy and signed by Rear-Admiral W. L. Rodgers. Its conclusion was:

The General Board believes it to be sound policy to prohibit gas warfare in every form and against every objective, and so recommends.

In the light of all these recommendations, Mr. Hughes said the American delegation believed that it should present a recommendation against the use of gas, and asked Mr. Root to propose the resolution. The official communique summarizes what Mr. Root said in this way:

MR. ROOT SPEAKS

There was an expression on this subject which presented the most extraordinary consensus of opinion that one could well find upon any international subject. He had drafted the resolution, which he would present in a moment, in the language of the Treaty of Versailles, which was subscribed to by four of the five powers here and was appropriated and taken over by the United States and Germany in the treaty concluded between them on the 25th of August last, and was repeated in the Treaty of St. Germain, between the same powers and Austria, and again in the Treaty of Neuilly, of the same powers with Bulgaria, and again in the Treaty of the Trianon with Hungary, and taken over and homologated by the United States in its treaty with Austria and its treaty with Hungary, and repeated again in the Treaty of Sevres. He read from Article 171 of the Treaty of Versailles, which says:

"The use of asphyxiating, poisonous, or other gases and all analogous liquids, materials, or devices being prohibited, their manufacture and importation are strictly forbidden in Germany. The same applies to materials specially intended for the manufacture, storage, and use of the said products or devices."

That declaration of prohibition against the use of poisonous gases he understood to be a statement of the previous rules which had been adopted covering the history of The Hague conferences; and, without undertaking to question or to inquire into it, it stood as a declaration of all the countries here represented that that is prohibited. And accordingly, following the language of the treaty, the language which all had adopted, he would present the resolution:

"The use in war of asphyxiating, poisonous, or analogous liquids or materials or devices having been justly condemned by the general opinion of the civilized world and a prohibition of such use having been declared in treaties to which a majority of the civilized powers are parties:

"Now, to the end that this prohibition shall be universally accepted as a part of international law, binding alike the conscience and practice of nations, the signatory powers declare their assent to such prohibition, agree to be bound thereby between themselves, and invite all other civilized nations to adhere thereto."

In these various treaties there were, Mr. Root thought, between thirty and forty powers which had assented to the statements of the prohibition of these practices; so that there was not much further to go in securing that general consent which changes a rule from contract to law.

Senator Schanzer, for Italy, accepted the resolution immediately. Before the other delegations were heard, adjournment was taken for the day.

POISON-GAS RULE ADOPTED

On January 7 definite action was taken on the poison-gas resolution, France, Great Britain, and Japan falling into line behind Italy in support of the American proposal to prohibit.

M. Sarraut, for France, said, in part:

I rise to express my full and frank adherence to Mr. Root's resolution. From the first, we condemned the barbarous inventions and the abominable practices introduced by Germany in the late war, the new methods consisting in the use of gases, burning liquids, and poisonous substances, and the first thing we have to do here officially is solemnly to denounce those who took the initiative in these things. We should all hope and work for the final disappearance from warfare of these infamous practices, if, indeed, other wars are to come—a thought that is abhorrent to me.

M. Sarraut made the point that nations must be prepared against violations of the rule, saying:

The reports of experts have established the impossibility of exercising an effective supervision over the production of gases which may be used as weapons of war, and hence the impossibility of preventing or limiting such production. This, as a logical consequence, entails the impossibility of preventing any country whatever from arming itself in advance against the unfair use of those gases which an unscrupulous enemy might secretly prepare for sudden use upon an unprotected enemy, as we have seen done during the late war.

But, if the exercise of authority in the matter does not at the moment appear practicable, the Root resolution is none the less a useful accomplishment, in the first place, because it will be a bond of union between the powers here represented, and, further, because their agreement and their example may be such as to bring about the adherence of all the nations to the same principles.

Mr. Balfour, for the British, spoke along the same line, and added that he believed "the outraged consciences of the civilized world" would rise in indignation against any power that violated the rule. Baron Kato, for Japan, expressed his approval in a few words.

THE REPORT ON AIRCRAFT

Mr. Hughes thereupon presented the report of the subcommittee which had been studying the question of aircraft in war, and which held, in brief, that nothing could be done to limit aircraft production for military purposes without unwisely interfering with production of aircraft for civil purposes. An exhaustive statement of the technical phases of the question preceded the following conclusion:

Number and Character

The committee is of the opinion that it is not practicable to impose any effective limitations upon the numbers or characteristics of aircraft, either commercial or military, excepting in the single case of lighter-than-air craft.

Use

The committee is of the opinion that the use of aircraft in war should be governed by the rules of warfare as adapted to aircraft by a further conference, which should be held at a later date.

Respectfully submitted by—

COMMITTEE ON AIRCRAFT

For the United States of America:
WILLIAM A. MOFFETT,
Chairman, Rear Admiral, U. S. N.
MASON M. PATRICK,
Major General, U. S. A.

For the British Empire:
J. F. A. HIGGINS,
Air Vice-Marshal, R. A. F.

For France:
ALBERT ROPER,
Capitaine, Pilote Aviateur, French Army.

For Italy:
RICCARDO MOIZO,
Colonel, R. I. A.

For Japan:
OSAMI NAGANO,
Captain, I. J. N.

NOTE.—The Italian representative believes, and desires to place on record, that one way in which it would be possible to limit the air power of a nation would be by placing a limit upon the number of pilots in the permanent military establishment, and consequently agrees with the general reasoning of the report in so far as it is not contrary to this opinion.

(Signed) RICCARDO MOIZO,
Colonel, R. I. A.

DEBATE ON AIRCRAFT

When the committee met on Monday, January 9, the discussion proceeded largely upon the assumption that nothing could be done to limit aircraft, and that the debatable question was the subcommittee's proposal that another conference formulate rules to govern aërial warfare.

Senator Schanzer said:

The subcommittee of experts has come to the conclusion that there is no practical method for limiting military and naval aviation.

The Italian member of the subcommittee was alone of the opinion that such a limitation could be obtained by limiting the number of pilots of the permanent military organizations, and since the other powers are willing to accept the conclusions of the subcommittee and a proposal aiming to the limitation of air armaments would have no chance of being accepted today, we will limit ourselves to expressing the desire that the future conference, which will be called to study and define the laws of aërial warfare, should take up again also the question of the limitation of aërial armament.

We have always insisted on the limitation of armaments in all fields and would deem it regrettable that the competition which we have partially succeeded in excluding from naval armament should be transferred to the dominion of military and naval aviation; this would be a serious drawback to the work of the economical reconstruction of our countries, which it is the duty of each of us to have in view.

Senator Underwood expressed himself as in accord with the subcommittee on the whole aircraft question. Mr. Balfour spoke in similar terms, his remarks being summed in the communique, in part, as follows:

In the present stage of their knowledge of air matters, it seemed quite impossible to limit aircraft designed for military uses without also limiting aircraft designed for commercial uses; so that every restriction which could be put upon aircraft would have a double reaction. It might, and perhaps would, diminish the number of aircraft which could be used for military purposes, but it could not carry out that object without also diminishing the number of aircraft to be used for the peaceful purposes of international intercommunication. In those circumstances he must admit with reluctance, but with a clear conviction, that probably the subcommittee was in the right when they said it would be quite hopeless, and not only hopeless but undesirable, to attempt, at the present time and in the present stage of our knowledge, to limit aircraft. He was therefore prepared to give his adhesion to the first part of the first resolution.

M. Sarraut said it would be wrong to do anything that would hamper the progress of aviation, and with that understanding the French delegation gave its adherence to the report of the committee.

Baron Kato, for Japan, said he believed the time would come when it would be necessary to effect a limitation upon the use of aircraft, but he believed it impracticable at present to do anything about heavier-than-air craft.

ACTION AS TO LIMITATION

Mr. Hughes cleared away finally the question as to limitation, his speeches being summarized in the communique as follows:

The chairman said that he thought that they all felt a deep disappointment in being unable to suggest practical limitations on the use of aircraft in war or on the preparations of aircraft for military purposes. They knew full well that in aircraft there was probably the most formidable military weapon of the future. And yet, addressing themselves, as practicable men, to the problem, they found no answer to the arguments which had been set forth succinctly, but most forcibly, by the technical subcommittee. The reason was, as had been well stated, that they were dealing in substance with facilities that were needed in the progress of civilization. They could not put a ban upon progress. They also knew, even if they prohibited all aircraft for military purposes and allowed the development of the art to meet the requirements of civil life, that in time of war the bases of that development would be immediately available, and within a short time provisions would be made amply for any possible military uses.

The question, therefore, reduced itself not to one of limitation of armament, but to a limitation of civil progress; and, faced with that difficulty, there seemed to be no alternative but to adopt the first resolution so far as it applied, as it did apply, exclusively to heavier-than-air craft.

This appeared to be the sense of the committee.

The chairman then said that the next question was whether it would be deemed practicable to impose a limitation in the case of lighter-than-air craft. He asked to call their attention to what the subcommittee said with regard to this subject. The statement was very short, and it brought before them the point quite clearly, and, with their permission, he would read it. The subcommittee said:

"Many of the remarks already made apply to lighter-than-air craft; but, as in the case of commercial aircraft of this nature, limitation is both possible and practicable. It is unnecessary to recapitulate the argument that the military value of a dirigible is dependent on its size, and the size of dirigibles and the number maintained can be limited by agreement of a few simple rules. Infraction of such rules can be rapidly ascertained without detailed inspection. But such a limitation of lighter-than-air aviation forces would not effect a limitation of this kind of air power of a nation unless a limitation were also imposed on its lighter-than-air commercial activities. The line of demarcation between the large commercial airship and the military airship is very slight, and a commercial dirigible would require little, if any, alteration in order to adapt it to military purposes.

The objections to the limitation of the number or character of commercial lighter-than-air craft have already been remarked on."

That allusion was, apparently, to the fact previously emphasized in the report, as follows:

"As regards the desirability of limitations, the committee has touched on those factors which must be understood before arriving at a decision. It feels it to be a duty to lay great stress upon the following fact, which will have a decided bearing upon any determination of the proper policy to be adopted; any limitation as to the number and character of civil and commercial aircraft, heavier than air or lighter than air, which is efficacious to hinder their utility for war purposes, must interfere disastrously with the natural development of aëronautics for legitimate civil and commercial enterprises. To limit the science of aëronautics in its present state is to shut the door on progress. It is for the Conference to decide whether the limitations which can with difficulty be devised and imposed are to be adopted at such a cost."

It was, therefore, practicable to impose a limitation, by agreement, upon the size of dirigibles. Questions as to limitation of number could be considered separately, but certainly it was practicable to impose a limitation upon size. The question was whether it was desirable to do so, in view of the fact that commercial dirigibles could be converted into military dirigibles; and therefore the question was whether the advantage in the limitation of armament—that is, in having an agreed limit of size of dirigibles—was so great that it offset the disadvantage of limiting the size of dirigibles for commercial purposes. The chairman presented that question for discussion.

No one desired to discuss the matter.

The chairman then asked if it was the desire of the committee to state, as their conclusion, in view of the arguments presented by the subcommittee, that it was not practicable to impose limitations upon lighter-than-air craft, or if it was their desire to present a resolution containing such a limitation.

Senator Schanzer said that he only desired to ask the chairman if the first proposal, which made an exception for lighter-than-air craft, were approved, might it not seem that the exception were approved also. He suggested the elimination of the words "excepting in the single case of lighter-than-air craft."

The chairman said the suggestion of Mr. Schanzer was that it would accomplish the purpose, if it was not proposed to put a limitation upon the lighter-than-air craft, to adopt the conclusion of the subcommittee, leaving out the last clause, so that the sense of this committee would be stated to be as follows:

"The committee is of the opinion that it is not practicable to impose any effective limitations upon the numbers or characteristics of aircraft, either commercial or military."

The chairman said that it was suggested by Mr. Balfour that the words "at present" should be inserted before "practicable." That seemed to be a very good suggestion, because that was what they were doing—not indicating that in the future it would not become practicable. Then the resolution would read:

"The committee is of the opinion that it is not at present practicable to impose any effective limitations upon the numbers or characteristics of aircraft, either commercial or military."

He then asked for an assent to this, and it was unanimously adopted.

AS TO RESTATING OLD RULES

The committee passed to direct consideration of the proposal for another conference to formulate rules of aërial war. Senator Schanzer wanted an immediate restatement of the old rules of war bearing upon bombardment of open towns. Admiral de Bon supported him. Mr. Root replied, and his remarks were reported as follows in the communique:

Mr. Root said that there was some uncertainty or alleged uncertainty in the application of The Hague rule regarding the bombardment of undefended towns to the action of aircraft. Of course, when the rule limited bombardment to defended towns, when it prohibited the bombardment of undefended towns, it had reference to military or naval operations against towns that afforded military obstacles to those operations, and as to those towns the provision was that the commander should notify the defended place so that the civilians might have an opportunity to withdraw. As to the undefended towns, he must not bombard them at all.

Now, those distinctions did not seem to fit bombardments from the sky. No town was defended against such bombardment. If the rule were strictly applied, it did not prohibit the bombardment of Paris, because of the fortifications surrounding Paris. It was a defended town. Most of the cities in Europe had some sort of defense. He fully sympathized with the view which Senator Schanzer took. If the committee were going to act, he wished Senator Schanzer would apply his very acute intellect toward making this rule more definitely applicable to the existing circumstances of aircraft and towns defended as against land attacks, but wholly undefended as against air attacks, and resolve the uncertainty that resulted from the fact that the rules were not made for air attacks. He thought the committee would render very useful service if it could do that—far beyond merely repeating a rule and leaving this uncertainty.

When one considered these two rules, that a defended town must not be bombarded without notice sufficient to enable the innocent—the women and the children and non-combatants—to withdraw, and that an undefended town must not be bombarded at all; when one considered these two rules, the spirit of them could prevent aircraft from bombarding any town whatever. Bombard a railroad junction, a station crossing? Yes. Bombard a munitions factory? Yes. But the center of an innocent population? No, not under any circumstances at all. For that reason, Mr. Root concluded, the rule was inadequate, and if the committee were going to speak, they ought to make it adequate.

Mr. Hughes turned the discussion to the idea of a commission of jurists to formulate rules, rather than a conference. His statements were given as follows in the communique:

The chairman said there seemed to be general acceptance of the spirit and purpose of the proposal made by Senator Schanzer. It was obvious from the discussion that in detail the matter was one which, like other rules relating to war, would require the most careful and probably protracted consideration of a commission of jurists, in order that the new situations which had been developed should be carefully considered and rules framed with precision to meet them.

The chairman said that the committee was now considering the recommendation of the subcommittee, that rules of warfare should be considered by a further conference. He suggested for the consideration of the committee that, instead of taking that course, provision should be made for the creation, through the action of the powers here represented, of a commission of jurists, which should, at an early date, take into consideration the question of rules of war which seemed to be demanded by new exigencies and revelations on the adaptation of new instruments of warfare, to the end that recommendations might be presented to the powers for their acceptance. The chairman feared that a future conference, for example, dealing with a question of this technical character—technical in the sense that it would require very close study by jurists—would find itself much in the same position that the committee was in: it would have to wait until it was advised by legal experts.

Perhaps the best form that this could be put in, and the most practical action, would be for the powers here to agree to designate members of a commission of jurists, who should make a report and recommendation.

Sir Robert Borden entered the discussion briefly, and Mr. Balfour made an argument that the commission include technical experts as well as jurists, and that its scope of action be limited to rules for new agencies of war, rather

than be broadened to a general revision of the rules of war. Mr. Hughes closed the argument by saying the Committee on Draft would be instructed to bring in a resolution for a commission, and that it would take into consideration Mr. Balfour's suggestions.

COMMISSION TO STUDY RULES OF WAR

On January 27 the Naval Committee received from Mr. Root, chairman of the subcommittee on drafting, a resolution providing a commission of jurists to study the rules of war in the light of developments in the World War.

The resolution follows:

The United States of America, the British Empire, France, Italy, and Japan have agreed:

I. That a commission, composed of not more than two members representing each of the above-mentioned powers, shall be constituted to consider the following questions:

(*a*) Do existing rules of international law adequately cover new methods of attack or defense resulting from the introduction or development, since The Hague Conference of 1907, of new agencies of warfare?

(*b*) If not so, what changes in the existing rules ought to be adopted in consequence thereof as a part of the law of nations?

II. That notices of appointment of the members of the commission shall be transmitted to the Government of the United States of America within three months after the adjournment of the present Conference, which, after consultation with the powers concerned, will fix the day and place for the meeting of the commission.

III. That the commission shall be at liberty to request assistance and advice from experts in international law and in land, naval, and aërial warfare.

IV. That the commission shall report its conclusions to each of the powers represented in its membership.

Those powers shall thereupon confer as to the acceptance of the report and the course to be followed to secure the consideration of its recommendations by the other civilized powers.

NAVAL TREATY COMPLETED

On January 31 Mr. Hughes reported that the subcommittee of 15 on naval questions had reached an agreement on the naval treaty, the matter of Pacific fortifications having been adjusted finally. The treaty was laid before the committee, but the formality of reading it was dispensed with, since each delegation had gone over it privately, and it was approved and ordered reported to the plenary session to be held the next day.

CLASH BETWEEN FRENCH AND BRITISH

In this meeting Ambassador Jusserand, of the French delegation, took Lord Lee, of the British delegation, severely to task for his references during the submarine debate to articles by Captain Castex, of the French navy, in the *Revue Maritime*. Lord Lee had stated that Captain Castex approved the German use of the submarine, and that, as he lectures to classes of French naval officers, his views impregnate the French navy. M. Jusserand, having obtained copies of Captain Castex's articles, bitterly denied that they contained approval of German methods. They merely stated, he said, the German theory. He observed that he could not understand how they had been misunderstood. Lord Lee insisted that the articles, taken as a whole, were as he had given them, in substance, during the debate.

THE ADJOURNMENT

On February 3 the committee adopted the Root resolution for a commission to report upon rules of international law respecting new agencies of war.

After felicitations, the committee adjourned *sine die*.

FAR EASTERN QUESTIONS

Having disposed of the vexatious question of Chinese customs when work was resumed on January 16, as outlined in the last issue of the ADVOCATE OF PEACE, the Far Eastern Committee, on January 17, took up the fundamental issue of the open door in China, and Secretary Hughes offered the following resolution restating the doctrine:

THE OPEN DOOR

With a view to applying more effectually the principle of the open door, or equality of opportunity for the trade and industry of all nations, the powers represented in this Conference agree not to seek or to support their nationals in asserting any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of the territories of China, or which might seek to create any such monopoly or preference as would exclude other nationals from undertaking any legitimate trade or industry or from participating with the Chinese Government in any category of public enterprise, it being understood that this agreement is not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial or industrial undertaking.

There was a general discussion, in which Sir Auckland Geddes suggested that there should be some machinery which could deal with issues arising under the open-door rule. The next day Mr. Hughes brought in a revised resolution. It was as follows:

MR. HUGHES' REVISED RULE

I. With a view to applying more effectually the principles of the open door, or equality of opportunity in China for the trade and industry of all nations, the powers, other than China, represented at this Conference agree:

(*a*) Not to seek or to support their nationals in seeking any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China.

(*b*) Not to seek or to support their nationals in seeking any such monopoly or preference as would deprive other nationals of the right of undertaking any legitimate trade or industry in China, or of participating with the Chinese Government or with any provincial government in any category of public enterprise, or which by reason of its scope, duration, or geographical extent is calculated to frustrate the practical application of the principle of equal opportunity.

It is understood that this agreement is not to be so construed as to prohibit the acquisition of such properties or rights as may be necessary to the conduct of a particular commercial, industrial, or financial undertaking or to the encouragement of invention and research.

II. The Chinese Government takes note of the above agreement and declares its intention of being guided by the same principles in dealing with applications for economic rights and privileges from governments and nationals of all foreign countries, whether parties to that agreement or not.

III. The powers, including China, represented at this Conference agree in principle to the establishment in China of a board of reference, to which any question arising on the above agreement and declaration may be referred for investigation and report.

(A detailed scheme for the constitution of the board shall be framed by the special conference referred to in Article I of the convention on Chinese customs duties.)